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Paul Velgos, d/b/a Paul Velgos Photography

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

10 PAUL VELGOS, D/B/A PAUL VELGOS PHOTOGRAPHY,

12 Plaintiff,

|| v.

13 BOARDWALK INVESTMENTS  
14 GROUP, LLC dba THE GARDEN  
15 NEWPORT BEACH, a Limited  
16 Liability Company; and DOES 1-10,  
inclusive.

17 Defendants.

Case No. 8:25-cv-171

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT (17 U.S.C. § 501)**

**DEMAND FOR JURY TRIAL**

1        Paul Velgos, d/b/a Paul Velgos Photography (“Plaintiff” or “Velgos”), by and  
2 through its attorneys of record, complains against Boardwalk Investments Group,  
3 LLC dba The Garden Newport Beach (“Defendant” or “The Garden”), and DOES 1-  
4 10, inclusive, as follows:

## **JURISDICTION AND VENUE**

6       1.     This is a civil action against Defendant for their acts of copyright  
7 infringement in violation of the United States Copyright Act, 17 U.S.C. §§ 101 et  
8 seq.

9        2. This Court has subject matter jurisdiction over this copyright  
10 infringement action under 28 U.S.C. §§ 1331, 17 U.S.C. § 501(a), and 28 U.S.C. §  
11 1338(a).

12       3.     Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (c)  
13     in that the claim arises in this Judicial District, the Defendant transacts business in  
14     this Judicial District, and the injury suffered by Velgos took place in this Judicial  
15     District. Defendant is subject to the general and specific personal jurisdiction of this  
16     Court because of their contacts with the State of California.

## PARTIES

18       4. Plaintiff Paul Velgos, d/b/a Paul Velgos Photography is an individual  
19 residing in Indiana.

20       5. Plaintiff is informed and believes and, upon such, alleges that  
21 Defendant Boardwalk Investments Group, LLC dba The Garden Newport Beach is a  
22 limited liability company formed under the laws of the state of Delaware with its  
23 principal place of business in Costa Mesa, California.

24       6.    DOES 1 through 10, inclusive, are unknown to Velgos, who therefore  
25   sues said Defendants by such fictitious names. Velgos will ask leave of Court to  
26   amend this Complaint and insert the true names and capacities of said Defendants  
27   when the same have been ascertained. Velgos is informed and believes and, upon  
28   such, alleges that each of the Defendants designated herein as a “DOE” are legally

1 responsible in some manner for the events and happenings herein alleged, and that  
 2 Velgos's damages as alleged herein were proximately caused by such Defendants.

3 **STATEMENT OF FACTS**

4 *Plaintiff's Business and the Photographs Forming the  
 5 Subject Matter of This Dispute*

6 7. As part of its business as a prominent photography agency, Velgos is  
 7 hired by a multitude of top-tier media outlets. Many thousands of Velgos's images  
 8 have been purchased for use in movies, television, books, magazines, websites, print  
 9 wall decor, and much more. Velgos's images have been licensed by some of the  
 10 world's most well-known businesses including Google, Warner Bros., Marriott,  
 11 Wyndham Hotels & Resorts, Bureau of Alcohol, Tabacco, Firearms and Explosives,  
 12 Fifth Third Bank, Chicago Magazine, Los Angeles Magazine, Orange Coast  
 13 Magazine, Marcus & Millichap, and Jewel Foods. Examples of projects and clients  
 14 are on Velgos's website. Velgos frequently works directly with businesses and also  
 15 partners with advertising agencies, art consultants, and design consultants on  
 16 projects.

17 8. Velgos has created many stylized and valuable photographs of high-  
 18 quality cityscape, landscape, real estate, and beach photography that emphasizes  
 19 unique scenes and tones. Among them is a photograph which frames the subject  
 20 matter of the dispute. This photograph is a photograph of the famed Fashion Island  
 21 sign at Newport Beach, California (the "Photo"), one of the most exclusive and  
 22 significant fashion and commercial retail locations in the country. A true and correct  
 23 copy of the Photo is attached hereto as Exhibit A.

24 9. Velgos has timely obtained the copyright registration for the Photo with  
 25 the United States Copyright Office. The Photo was registered with the copyright  
 26 office on April 22, 2012, before Defendant's copyright infringement. A true and  
 27 correct copy of the Copyright Registration Certificate is attached hereto as Exhibit  
 28 B.

## *The Defendants and the Marketplace*

10. The Garden's website promotes their retail center which includes various photos of multiple businesses at their location.

11. On information and belief, the Defendant makes revenue through promoting photos of businesses in Newport Beach. One promotional material involves the Photo, which intellectual property is not licensed to The Garden or authorized by the owner to be present for advertising.

12. Plaintiff's image and the infringement are reproduced here:

### *Velgos's Registered Photo:*



*Fashion Island Sign in Newport Beach California* is a photograph by Paul Velgos which was uploaded on November 9th, 2012.

## *Infringing Use by The Garden Newport Beach:*



12        13. Plaintiff is informed and believes that Defendant has violated federal  
13 law by infringing Velgos's copyright to at least the Photo identified in Exhibit A.  
14 Specifically, Defendant reproduced, distributed, hosted on its servers, modified and  
15 created a derivative version, and then publicly displayed the Photo, and/or  
16 derivatives thereof without permission, consent, or license for the purposes of trade,  
17 specifically to promote The Garden's retail center and used Velgos's Photo to  
18 advertise such products.

14. Velgos has never sold or licensed the Photo to Defendant for use.

20        15. Plaintiff is informed and believes that Defendant has driven significant  
21 traffic to The Garden. As mentioned above, all this traffic translates into substantial  
22 ill-gotten commercial advantage and revenue generation for Defendant as a  
23 consequence of their infringing actions.

24       16. The infringement is also willful given, as Plaintiff is informed and  
25 believes and therefore alleges, that the watermark in the Photo on Defendant's  
26 website which was cropped to be removed by Defendant on the visible portion of  
27 the public display of the Photo on Defendant's website, and hence look legitimate,  
28 but which watermark is present in the full image when downloaded from the

1 Defendant's website (as seen above in the images). Plaintiff's properly licensed  
 2 images do not contain the watermark in licensed production works.

3 **FIRST CLAIM FOR RELIEF**

4 **(Copyright Infringement, 17 U.S.C. § 501, Against All Defendants)**

5 17. Plaintiff Velgos incorporates herein by reference the allegations in  
 6 paragraphs 1 through 16 above.

7 18. Velgos is the rightsholder to the copyright of the Photo, which  
 8 substantially consists of wholly original material that constitutes copyrightable  
 9 subject matter under the laws of the United States. Velgos has complied in all  
 10 respects with the Copyright Act and all of the laws of the United States governing  
 11 copyrights. The Photo has been timely registered with the United States Copyright  
 12 Office.

13 19. Defendant has directly, vicariously, and/or contributorily infringed, and  
 14 unless enjoined, will continue to infringe Velgos's copyright by reproducing,  
 15 displaying, distributing, and utilizing the Photo for purposes of trade without  
 16 authorization of or payment to Velgos in violation of 17 U.S.C. § 501 et seq.

17 20. Defendant has willfully infringed, and unless enjoined, will continue to  
 18 infringe Velgos's copyrights by knowingly reproducing, displaying, distributing,  
 19 and utilizing the Photo for the purposes of trade, specifically to promote The  
 20 Garden's retail center.

21 21. Velgos is informed and believes that Defendant, despite such  
 22 knowledge, willfully reproduced and distributed the Photo, without any right to do  
 23 so.

24 22. Defendant has received substantial benefits in connection with the  
 25 unauthorized reproduction, distribution, and utilization of the Photo for purposes of  
 26 trade, including by increasing the traffic to their websites and use of their services.

27 23. Defendant's unauthorized actions were performed without Velgos's  
 28 permission, license, or consent.

1       24. Defendant's wrongful acts have caused, and are causing, great injury to  
2 Velgos, of which damages cannot be accurately computed, and unless this Court  
3 restrains Defendant from further commission of said acts, Velgos will suffer  
4 irreparable injury, for all of which it is without an adequate remedy at law.  
5 Accordingly, Velgos seeks a declaration that Defendant is infringing Velgos's  
6 copyrights and an order under 17 U.S.C. § 502 enjoining Defendant from any  
7 further infringement of Velgos's copyrights.

8       25. As a result of Defendant's wrongful acts alleged herein, Velgos has  
9 suffered and is suffering substantial damage to its business in the form of diversion  
10 of trade, loss of profits, injury to goodwill and reputation, and the dilution of the  
11 value of its rights, all of which are not yet fully ascertainable.

12        26. Because of the willful nature of Defendant's copyright infringement,  
13 Velgos is entitled to an award of statutory damages of up to \$150,000 per  
14 copyrighted work.

15        27. Alternatively, at its discretion, Velgos is entitled to actual damages in  
16 an amount to be proven at trial for the infringement of the Photo.

17        28. Velgos is also entitled to its attorney's fees and costs in prosecuting this  
18 action.

## PRAYER FOR RELIEF

20 WHEREFORE, Plaintiff Velgos requests judgment against Defendant as  
21 follows:

22       A.     The Defendant, their officers, agents, servants, employees,  
23 representatives, and attorneys, and all person in active concert or participation with  
24 them, be permanently enjoined from designing, copying, reproducing, displaying,  
25 promoting, advertising, distributing, or selling, or any other form of dealing or  
26 transaction in, any and all advertising and promotional materials, print media, signs,  
27 Internet websites, or any other media, either now known or hereafter devised,  
28 bearing any design or mark which infringe, contributorily infringe, or vicariously

infringe upon Velgos's rights in the Photo at issue.

B. Defendant be held liable to Velgos in statutory damages for copyright infringement in accordance with 17 U.S.C. §§ 504 (a)(2) and (c) and for costs, interest, and reasonable attorney's fees pursuant to 17 U.S.C. § 505.

C. An accounting be made for all profits, income, receipts, or other benefit derived by Defendant from the reproduction, copying, display, promotion, distribution, or sale of products and services, or other media, either now known or hereafter devised that improperly or unlawfully infringes upon Velgos's copyright pursuant to 17 U.S.C. § 504 (a)(1) and (b).

10 D. Requiring Defendant to account for and pay over to Velgos all profits  
11 derived by Defendant from their acts of copyright infringement and to reimburse  
12 Velgos for all damages suffered by Velgos by reasons of Defendant's acts, pursuant  
13 to 17 U.S.C. §§ 504 (a)(1) and (b).

14 E. Actual damages for copyright infringement pursuant to 17 U.S.C. §§  
15 504 (a)(1) and (b).

16 F. That Velgos be awarded any such other and further relief as the Court  
17 may deem just and appropriate.

19 | Dated: January 30, 2025

ONE LLP

By: /s/ Peter R. Afrasiabi

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Peter R. Afshasiabi

Christopher S. Skinner

*Attorneys for Plaintiff,*

Paul Velgos, d/b/a Paul Velgos  
Photography

**DEMAND FOR JURY TRIAL**

Plaintiff Paul Velgos, d/b/a Paul Velgos Photography, hereby demands trial by jury of all issues so triable under the law.

Dated: January 30, 2025

By: /s/ Peter R. Afrasiabi

Peter R. Afrasiabi

Christopher S. Skinner

*Attorneys for Plaintiff,  
Paul Velgos, d/b/a Paul Velgos  
Photography*

## **DEMAND FOR JURY TRIAL**